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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,277	07/09/2001	Gurtej S. Sandhu	MI22-1780	1605

21567 7590 09/23/2002

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.  
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SUITE 1300  
SPOKANE, WA 99201-3828

EXAMINER

SCHILLINGER, LAURA M

ART UNIT	PAPER NUMBER
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2813

DATE MAILED: 09/23/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/902,277

Applicant(s)

SANDHU ET AL.

Examiner

Laura M Schillinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37,38 and 43-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37,38 and 43-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The reply filed on 7/9/02 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Originally, claims 1-32 were pending in the application. In prosecution history, Applicant has provided 5 separate amendments as follows:

Amendment A, Paper No.4, dated July 9, 2000 canceled claims 1-32 and added claims 33-42; in Amendment B, Paper No.5, also dated July 9, 2000, canceled claims 1-36 and 39-42 and added claims 43-45; Amendment C, Paper No.6, dated October 16, 2001, also canceled claims 1-32 and added claims 33-37, which the PTO renumbered as 46-50, because it is the PTO's policy NOT to permit newly added claims to share the same claim number as a prior canceled claims.

The Examiner mailed a Non-final office action pertaining to claims 37-38 and 43-50. Applicant responded to the Examiner's office action with Amendment E, Paper No. 11, dated July 16, 2002. This Amendment is considered to be non-responsive because it attempts to amend claims 33-37 and attempts to add claims 38-40. Again, the Office renumbered these claims, so that claims 46-50 were amended, and claims 51-53 were added. However, the defect still exists because the dependencies still rely upon canceled claims 33 and 35.

Further, a substantial number of Applicant's arguments are made with regard to canceled claim 33. The Examiner would like Applicant to submit a new amendment, acknowledging the proper number of claims and may refer to the non-final office action that clearly indicates the renumbering of claims which is in the Office record. This will greatly assist in keeping the

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record of prosecution clear. If the Examiner, attempts to respond to the Applicant's arguments which refer to canceled claims 33, the Examiner fears that a reviewing body may have great difficulty ascertaining the prosecution of the case. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

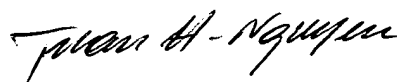
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M Schillinger whose telephone number is (703) 308-6425. The examiner can normally be reached on M-F 7:00 -4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (703) 306-2794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1500.

LMS  
September 19, 2002



**Tuan H. Nguyen**  
Primary Examiner